

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL
City of Rialto, acting as Successor Agency to the
Redevelopment Agency
RIALTO HOUSING AUTHORITY**

**MINUTES
January 13, 2015**

A regular meeting of the City Council of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday, January 13, 2015.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Robertson called the meeting to order at 5:01 p.m.

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The roll was called and the following were present: Mayor Deborah Robertson, Mayor Pro Tem Palmer, Council Members Joe Baca Jr., Ed Scott and Shawn O'Connell. Also present were City Administrator Michael Story, City Attorney Fred Galante and City Clerk Barbara McGee.

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**CLOSED SESSION
SUBSEQUENT NEED ITEM**

City Attorney Galante stated that there was item requesting the Mayor's attendance to a League of California Cities Policy Committee Meeting came after the posting of the agenda.

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Motion by Council Member Baca Jr., second by Council Member Scott and carried by unanimous vote to add the Subsequent Need Item to the Consent Calendar on the Agenda.

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CLOSED SESSION

1 Conference with Legal Counsel - Existing Litigation: The City Council will discuss the following pending litigation (s) pursuant to Government Code Section 54956.9(d)(1):

- (a) City of Colton v. American Promotional Events, Inc., et al
CD Cal Case No. ED CV 09-01864 PSG(SSx) and consolidated cases
- (b) San Bernardino Valley Municipal Water District v. San Gabriel Valley Water d.b.a. Fontana Water Company, et al
S.B. Superior Court Case No. CIVDS1311085
- (c) City of Rialto v. Chevron USA, Inc. and related cross action
S.B. Superior Court Case No. CIVDS1406197
- (d) Aaron Schulman v. City of Rialto
WCAB CR-10-0500052

Conference with Labor Negotiator regarding the following recognized employee organization pursuant to Government Code Section 54957.4:

Agency designated representatives: Fred Galante, City Attorney
George Harris, Administrative and Community Services Director
Employee organizations: Fire Management Bargaining Unit

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Motion by Mayor Pro Tem Palmer, second by Council Member Baca Jr., and carried by unanimous vote to go into Closed Session at 5:05 p.m. and returned at 6:31 p.m.

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CALL TO ORDER

Mayor Robertson called the meeting to order at 6:31 p.m.

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The roll was called and the following were present: Mayor Robertson, Mayor Pro Tem Palmer, Council Members Ed Scott, Joe Baca Jr. and Shawn O'Connell. Also present were City Administrator Michael Story, City Clerk Barbara McGee and City Attorney Fred Galante.

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Pledge of Allegiance and Invocation

Mayor Deborah Robertson led the pledge of allegiance and Pastor Moises Gonzalez, Templo Bautista Monte Calvario Church gave the Invocation.

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City Attorney's Report on Closed Session

City Attorney Galante stated that City Council met in Closed Session and discussed all the items listed under Closed Session on the Agenda.

- 1a. City of Colton v. American Promotional Events and related actions. City Council heard a discussion from a representative of the Paul Hastings Law Firm. Motion by Council Member Baca Jr., second by Mayor Pro Tem Palmer and carried by unanimous vote to authorize Mayor Robertson and Council Member Scott to attend a meeting with the EPA at the end of the month. Incur an additional \$15,000 in further pursuit of the Federal Action.
- 1b. San Bernardino Valley Municipal Water District v. San Gabriel Valley Water. City Council heard a discussion and provided direction to the City Attorney and City Administrator and no further reportable action was taken.
- 1c. City of Rialto v. Chevron USA. City Council heard a discussion and Motion by Council Member Scott, second by Mayor Pro Tem Palmer and carried by unanimous vote to authorize the City to retain West Yost Associates as expert witnesses for an amount not to exceed \$50,000 subject to a contract to be approved by the City Attorney.
- 1d. Aaron Schulman v. City of Rialto, a workers compensation matter. City Council provided direction and no further reportable action was taken.
2. City Council heard from the Labor Negotiator concerning employee organization: Fire Management Bargaining Unit. They heard an update to the labor negotiations for that matter and no reportable action was taken.

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PRESENTATIONS
PROCLAMATIONS

Presentation – Holiday Decorations Award Program – Dianne Tolbert Beautification Commission Chairperson.

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ORAL COMMUNICATIONS

Joanne Gilbert, San Bernardino Valley Chapter of LINKS Inc., she thanked the City for allowing the Waste Management Division to become involved in collecting t-shirts for the women in Haiti to create cloth diapers.

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June Hayes, P.O. Box 2395, acknowledged the behind the scenes workers in all the City departments.

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REMOVAL OF ITEMS

City Attorney Galante stated that TAB 7 will need to be removed from the Agenda to address a protest letter the City received.

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Council Member Baca Jr. stated in regards to E10 he requested to travel to ICSC, but he didn't realize that it was the week of the high school playoffs, so he will not be able to attend.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

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B. APPROVAL OF WARRANT RESOLUTIONS

B.1 Resolution No. 22 (12/12/14)

B.2 Resolution No. 23 (12/19/14)

B.3 Resolution No. 24 (12/26/14)

B.4 Resolution No. 25 (01/09/15)

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CONSENT CALENDAR

C. APPROVAL OF MINUTES

C.1 Regular City Council Meeting - December 09, 2014

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D. SET PUBLIC HEARINGS

D.1 Request City Council to Set a Public Hearing for January 27, 2014 to consider Annexation No. 170 and initiate the annexation application process with the San Bernardino County Local Agency Formation Commission (LAFCO) to annex Lytle Creek Ranch Specific Plan Neighborhoods 2 and 3 from the Rialto sphere of influence in unincorporated San Bernardino County to the City of Rialto.

D.2 Request City Council to Set a Public Hearing for January 27, 2015 to review an Addendum to the Renaissance Specific Plan Environmental Impact Report for the construction of a 1,070,320 square foot distribution center located at the northwest corner of Locust Avenue and Miro Way for Medline Incorporated.

D.3 Request City Council to Set a Public Hearing for January 27, 2015 to review an Addendum to the Renaissance Specific Plan Environmental Impact Report for the construction of a 594,220 square foot distribution center located at the northeast corner of Alder Avenue and Miro Way for Niagara Bottling LLC.

CONSENT CALENDAR

D.4 Request City Council to Set a Public Hearing for February 10, 2015 to consider an Ordinance of the City Council of the City of Rialto, California, Granting to West Colton Rail Terminal LLC, the Nonexclusive Right, Privilege, Authority, and Franchise to Lay and Use Pipelines and Appurtenances for Transmitting and Distributing Ethanol for any and all Lawful Purposes under and along the Public Streets, Ways, Alleys And Places, as the same now or may hereafter exist, within said City; adopt a Mitigated Negative Declaration (Environmental Assessment No. 12-23); and approve Conditional Development Permit Nos. 712 and 720 for West Colton Rail Terminal. LLC (WCRT) and Kinder Morgan Energy Partners, L.P. (KMEP) to construct approximately 1,600 linear feet of underground pipeline connecting to an existing 1,900 linear foot pipeline; and pump ethanol from the WCRT Facility located at 1910 S. Sycamore Avenue to the KMEP Colton North Terminal (CNT) located at 2051 E. Slover Avenue and the KMEP Colton South Terminal (CST) located at 2359 S. Riverside Avenue.

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E. MISCELLANEOUS

E.1 Request City Council to Accept the Enhanced Vapor Recovery System Improvements, City Project No. 140213.

E.2 Request City Council to Receive and File the Statement of Income and Expenses related to Airport Escrow Account for November 2014.

E.3 Request City Council to Award a Construction Contract to Pavement Recycling Systems, Inc., a California corporation, in the amount of \$37,815.14 for removal of the runway markings at the Rialto Municipal Airport.

CONSENT CALENDAR

E.4 Request City Council to Approve Revisions to the Contractor Agreement between City of Rialto and Dr. Michael M. Neeki for Medical Director Administrative Services and fees for services not to exceed \$ 32,500 over a two-year period.

E.5 Request City Council to Increase Purchase Order # 2014-0632 by \$15,000 for a total of \$30,000 with Liebert, Cassidy, and Whitmore to Complete the Update to the First Draft of the Citywide Personnel Rules and Regulations.

E.6 Request City Council to Adopt Resolution No. 6680 Dedicating Portions of that City-Owned Property Located Within the Renaissance Specific Plan as Public Right-of-Way for Locust Avenue.

E.7 Request City Council to Approve a Purchase Order with PRO MAXIMA for nine VIPER SERIES Commercial Treadmills in the Amount of \$21,335.40 for Replacement of Old Equipment at the Rialto Racquet and Fitness Center.

CONSENT CALENDAR

- E.8 Request City Council to Adopt Resolution No. 6681 for the Placement of Liens Against Abandoned Properties for Failure to Comply with Administrative Citation to Correct Code Violations.
- E.9 Request City Council to Approve a Travel and Training Request for IVS SWAT Officer Mark Render to attend the Tactical Explosive Breaching Course, April 20 through May 1, 2015.
- E.10 Request City Council to Approve a Travel and Training Request for Mayor Deborah Robertson, Mayor Pro Tem Ed Palmer, Council Member Joe Baca, Jr., and Council Member Ed Scott to attend the ICSC RECon Convention, May 17 - 20, 2015, in Las Vegas.
- E.11 Request that the Rialto Utility Authority Approve the Fourth Extension of Termination Date for the Site Use Agreement by and between the Rialto Utility Authority and Rialto Bioenergy Facility LLC.
- E.12 Request City Council Approve a Disposition Of Surplus Property Agreement Between the City Of Rialto and Cable Airport.
- E.13 Request City Council to Approve the Assignment and Assumption of Contract by and between LEIDOS Engineering, LLC and West Yost Associates.
- E.14 Request City Council to Approve an Exchange Agreement by and Between the City of Rialto and Inland Empire ARLH, LLC.
- E.15 Request City Council to Approve Amendment #1 between the City of Rialto and the Rialto Fire Management Association (RFMA) for changes to the current Memorandum of Understanding (MOU) dated July 1, 2013 through June 30, 2015, adding changes related to the addition of the Fire Division Chief position.
- E.16 Request for City Council to Approve Cooperative Agreement No. 15-1001131 with the San Bernardino County Transportation Commission related to the Rialto Metrolink Station Accessibility Improvement Project.
- E.17 Request City Council to Approve the subsequent need Travel and Training Request for Mayor Deborah Robertson to attend the League of California Cities Policy Committee Meeting.

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ORAL COMMUNICATIONS

David Phillips, 659 N. Teakwood Ave., stated that in the past City Council was only sending one or two people to conferences to try and not spend too much money. Now they will be sending 4 elected officials. Council Member Baca not attending now. I noticed Council Member O'Connell was missing from the list. He felt one or two people can do the job.

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ORAL COMMUNICATIONS

Mayor Robertson stated that last year, and previous years there generally has been almost a minimum of 3 if not 4 members as well as 3-4 staff that have attended. They come at different times and stagger. Last year there were 3 Council Members. She has asked Council Member O'Connell to attend every year.

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Council Member O'Connell stated that originally they put a restriction on travel for the exception of city related events. He has been asked multiple times by the Mayor to attend. They have amazing companies stepping forward now that are wanting some of the properties that they own such as In-N-Out and Chipotle and some properties they don't own. Former Council Member Lynn Hirtz brought up that she was working with a movie theater wanting to come. This type of conference is beneficial to have as many people as possible to go. It shows commitment and shows the City is very business friendly. If it wasn't a travel issue for me at this time, he would probably be going as well.

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Council Member Scott stated that this is a great conference especially in a time when economic growth is occurring in the county. He would remind this City Council that In-N-Out is in the City of Rialto as a result of him and Council Member Baca Jr. going to ICSC. This is how the meetings started with bringing In-N-Out to the community and it's a good idea and agrees with Council Member O'Connell that sometimes the more the better. They all have contacts they can meet and gives them the opportunity to split up and visit multiple companies that are looking to relocate into the community. In his opinion it's well worth going to this event.

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Mayor Pro Tem Palmer stated that sometimes there is a misconception because it's in Las Vegas they are having good time. Going to these conventions in Las Vegas or San Diego makes him more tired than anything else. They get there in the morning and they are there all day walking and meeting people non-stop. He and the Mayor met with Jersey Mike's Subs every time they went and they met with Chipotle. Also, he has free rooms in Las Vegas because of his son. So the City doesn't pay for his rooms while he is there.

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Motion by Mayor Pro Tem Palmer, second by Council Member Scott and carried by unanimous vote to approve the Consent Calendar.

TAB 1 – Appointment of Mayor Pro Tem

City Clerk Barbara McGee presented the staff report regarding the appointment of a Mayor Pro Tem.

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Motion by Mayor Robertson, second by Council Member Ed Scott and carried by unanimous vote to appoint Joe Baca Jr. as Mayor Pro Tem. The vote was: AYES: Mayor Robertson, Council Members: Palmer, O'Connell, Scott and Baca Jr. NOES: none. ABSTAIN: none. ABSENT: none.

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Council Member Palmer stated that this is a rotating position. It's a great opportunity to learn and be part of the City Council. He enjoyed being Mayor Pro Tem the last 2 years.

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Mayor Robertson stated that she looks forward to working with Joe Baca Jr. as Mayor Pro Tem and the rest of Council. She personally wanted to make that motion because she has been with Council Member Baca Jr. and the returning of Council Member Scott. Often time she thinks that people feel they are not on the same page. They say all the time they have the community's best interest at heart.

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TAB 2 – Vacation of existing right-of-way for Laurel Ave.

Robb Steel, Development Services Director presented the staff report regarding vacation of existing right-of-way for Laurel Ave. north of Miro Way and south of Walnut.

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Mayor Robertson declared the public hearing open. No one came forward.

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Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to close the public hearing.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member O'Connell and carried by unanimous vote to adopt Resolution No. 6682 approving the vacation of existing right-of-way for Laurel Avenue, north of Miro Way and south of Walnut Ave.

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TAB 3 – Board and Committee Assignments of Council Members

City Clerk Barbara McGee presented the staff report regarding the Board and Commission Assignments for City Council Members.

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**TAB 3 – Board and Committee
Assignments of Council Members**

Council Member O'Connell stated historically the Mayor interviews the council members for interest and availability. He believes he was missed to be available.

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Mayor Robertson stated that she didn't do interviews 2 years ago. She met with Council Member O'Connell when he first came on board to get what his interests were. She spoke to the returning member. She didn't ask for interviews. Since the two years one of the committees has dissolved.

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Council Member O'Connell stated referencing reasonable accommodations his availability should be taken as an interest. He is hoping they can table the matter for 2 weeks until they can address this.

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Mayor Robertson stated that she is not opposed tabling the matter. If you would like to see the committee assignments. This is information they need to get to the other agencies so they will know by the 1st. If there is anyone who has any objections or not, she is comfortable with tabling it. She thinks the assignments that they had previously seemed to coincide with their ability and she doesn't know if they changed any. She would be more than happy to table it and have a conversation with Council Member O'Connell.

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Council Member O'Connell stated can they take CDBG out and discuss it as a separate item.

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Mayor Robertson stated that when they bring back. There are a number of other internal committee assignment listed.

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Council Member O'Connell stated that he is interested in the CDBG, instead of a two member overlooking the CDBG. At the end of the month they are having a public forum and then doing another forum. He would like for the CDBG Committee be a public forum.

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Mayor Robertson stated okay, she would like to have that conversation also with the City Attorney. The formation of a committee is for that very purpose. They do need to have committees and if they are going have that conversation, then it should be about all the committees.

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**TAB 3 – Board and Committee
Assignments of Council Members**

Council Member Scott stated is it not under the current City structure, that the Mayor has the authority to make the appointments at her pleasure.

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City Attorney Galante stated that there are some appointments that the Mayor does outright and others that need the ratification of the City Council. Generally, he has seen a table that explains which agencies require the Mayor's appointment.

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Council Member Scott stated wouldn't be appropriate to go ahead and proceed with the appointments tonight. If there are committees that people are assigned to that they are not able to perform on those committees then they can withdraw from them tonight or have a conversation with the Mayor. Some of these are important committees and they need to move forward with the representation they choose.

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City Clerk McGee explained that there are conflict of interest forms that need to be submitted for some of these committees.

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Mayor Robertson stated trying to be respectful of Council Member O'Connell's concern. She knows what committees have to have 700 forms sent in. What if she makes the appointments to those committees that require the 700 Forms. She can have a conversation with them regarding the internal committees meetings. One of the things, because of the past 2 years and ongoing. They talk all the time about transparency and they talk about the Brown Act. She consciously try to make sure she doesn't violate or overstep the Brown Act. Then in having conversations and asking for comments. She can get a list, but she feels out of courtesy she still wants to hear their concerns. The last 2 years there were 21 committee assignments. Now there are 20 committees including the internals. Tonight she will talk about the external.

- SANBAG
Deborah Robertson and Shawn O'Connell
- League of California Cities (voting delegate)
Deborah Robertson and Shawn O'Connell
- CONFIRE
Ed Palmer and Ed Scott
- Countywide Solid Waste Committee
Deborah Robertson

**TAB 3 – Board and Committee
Assignments of Council Members**

- San Bernardino Valley Municipal Water District
Deborah Robertson and Ed Palmer
- SCAG General Assembly
Deborah Robertson and Shawn O’Connell
- Agua Mansa Executive Committee (AMIGA)
Deborah Robertson and Joe Baca Jr.
- Lytle Creek Water Conservation District (WVWD)
Shawn O’Connell and Ed Scott
- West End Water Treatment Joint Powers (WVWD)
Deborah Robertson and Joe Baca Jr.
- Foothill Freeway Corridor Joint Powers Authority
Ed Scott and Shawn O’Connell
- Oversight Board to the Successor Agency
Deborah Robertson
- Rialto Unified School District
Deborah Robertson and Joe Baca Jr.
- Omnitrans Representative
Deborah Robertson and Ed Palmer

The rest are internal City assignments. She will make those appointments at a later date.

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Council Member O’Connell stated that 2 years ago that it was stated from the dais that they only had 4 representatives. Mr. Baca Jr. was not available due to his schedule except for the CDBG Committee. Mr. Palmer works as well. He let it be known that he would do a backup and the Mayor has done a great job attending all the meetings because he has never gone to a single one and that he would be a backup as needed. It sounds like he was on all these committees but it was listed as a necessity and when no one else was available. Going forward now that they have a full board. He would like his name removed from these just as an off chance there is a scheduling issue.

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TAB 3 – Board and Committee Assignments of Council Members

Mayor Robertson stated that if there are ones that he really wants his names removed from she will take that under consideration after they get off the item.

Previously last year she had 18 of the assignments and this year she has 16. Council Member Palmer had 8 assignments last year and now it 5. Council Member Baca Jr. had 1 and now it's 5. Council Member O'Connell previously had 10 and now it's 6. She was trying to find some balance and she appreciates what he is saying.

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Council Member Palmer stated he has one concern. He spent six years now on City Council and all six years on Omnitrans as the lead person. He fostered some great relationships with everyone. He gets a lot done because he was on the committee. Now the Mayor has taken the lead on that committee and he is now the backup. Seems like the last 6 years have been a waste if he doesn't continue on. He has a concern that she took the lead on that committee.

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Mayor Robertson stated that she doesn't think that it was intended for me to spend the time having a conversation about the activities. She will be more than happy to have a conversation with him.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by a 3-2 vote to approve the external Board and Committee Assignments for City Council Members.

The vote was: AYES: Mayor Robertson, Mayor Pro Tem Baca Jr., and Council Member Scott. NOES: Council Member Palmer and Council Member O'Connell. ABSTAIN: none. ABSENT: none.

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TAB 4 – Refurbishment of an Ambulance

Fire Chief Fratus presented the staff report regarding the Contract to Braun Northwest in the amount of \$128,253 to Refurbish One Ambulance.

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Council Member Scott commended the fire administration for thinking outside the box and looking at ways of saving money the vehicles.

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Mayor Pro Tem Baca Jr. commended the creativity on trying to save money. At the same time maintain the same high level of service. They appreciate the good work.

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Council Member O'Connell commended the fire department for thinking outside the box and stepping up to make this a better and functional budget.

TAB 4 – Refurbishment of an Ambulance

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Motion by Council Member Palmer, second by Council Member Scott and carried by unanimous vote to Approve and Award the Contract to Braun Northwest in the amount of \$128,253 to Refurbish One Ambulance.

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TAB 1 – Appointment of Mayor Pro Tem

She overlooked that someone wanted to speak to TAB 1. She wasn't focusing on the fact that TAB 1 being a procedural thing would have somebody who wanted to speak.

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ORAL COMMUNICATIONS

David Phillips, 659 N. Teakwood Ave., congratulated Council Member Baca Jr. on his appointment to Mayor Pro Tem. He thanked Mr. Palmer for the last two years of being Mayor Pro Tem. He did it well and throughout the City and probably one of the best Mayor Pro Tems.

They need to slow down tonight, he knows it's along agenda and a lot of hard questions are being asked. He doesn't know how to appropriately get the Mayor's attention. The balance of power has swung to one side of the table now. He doesn't find favor on that side of the table but to let everyone know he is not going anywhere until he moves out of the City.

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Mayor Robertson stated that it was not intentional on her part overlooking that he wanted to speak. Maybe it's best that each item stand alone on a form rather than multiple items.

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TAB 5 – Successor Agency Bond Proceeds Expenditure Report

Robb Steel, Development Services Director presented the staff report regarding approving a proposed Bond Expenditure Agreement for funding three projects that City Council previously approved.

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ORAL COMMUNICATIONS

David Phillips, 659 N. Teakwood Ave., expressed his concern regarding the future construction project near the Flores Park Neighborhood. He explained similar construction at Ayala and Baseline is a disaster.

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Council Member Scott asked if these were improvement projects correct?

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Robb Steel, Development Services Director stated correct, they are all Public Works.

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Council Member Palmer left the dais at 7:35 p.m. and returned at 7:36 p.m.

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TAB 5 – Successor Agency Bond Proceeds Expenditure Report

Council Member Scott asked if they went through the Transportation Commission.

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Robb Steel, Development Services Director stated yes.

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Council Member Scott stated it's looked at by City Engineers, Transportation Commission which is residents of the City and then to City Council.

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Robb Steel, Development Services Director stated yes.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to Adopt Resolution No. 6683 and the City Council, acting as the Governing Board for the Successor Agency, Adopt Resolution No. SA1-15 to approve the Bond Proceeds Expenditure Agreement between the City of Rialto and the Successor Agency to fund a total of \$8,289,617 for the Ayala Drive Improvement Project, the Riverside/San Bernardino Street Improvement Project, and the Foothill Boulevard Traffic Signal Project.

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TAB 6 – Construction Contract with Matich Corp. – annual street overlay

Robb Steel, Development Services Director presented the staff report regarding a Construction Contract with Matich Corp. for annual street overlay project.

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Council Member Scott asked if there was project list.

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Robb Steel, Development Services Director stated that he has a definition of the various schedules. So if they are inquiring as to what projects were deleted from the scope and schedules B and D. Schedule B is Cedar Avenue from Merrill to Rialto. Schedule D is Easton Street from Riverside to Willow. The projects that are being funded are Slover from Cactus to Riverside and Rialto from Cedar to Willow.

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Council Member Baca Jr. asked what is the timeline of when this project will begin.

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TAB 6 – Construction Contract with Matich Corp. – annual street overlay

Robb Steel, Development Services Director stated typically is about 3 weeks to 4 weeks to get contracts signed and the contractor to mobilize. Then the project moves quick.

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Mayor Pro Tem Baca Jr. stated that he appreciates staff for bringing this forward. One of the biggest concerns of the residents is always the streets. This is a good action and glad to see that it's a San Bernardino County business is receiving the contract.

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Council Member O'Connell stated that he was little confused when reading the staff report. Can they break it down by year so they can understand it. Last meeting fiscal responsibility and transparency was brought up and it was stated that it shouldn't be a vision. He strongly disagrees because he is known as the fiscally responsible and transparent person. It needs to be their vision which is why they have accomplished in the last two years. Once they start getting the money from the oil companies he would like to revisit the Burrtec fee. At the time 2-3 citizens came forward and said they didn't want the fee. One because it's a tax. Two once they give the money the City will do other thing with it. They have had the fee less than six months. So far they have taken \$500,000 from the General Fund last year and not put into roads. They need the \$6-\$7 million a year to maintain where they are currently at. They took from the General Fund and they never put it in. Without anyone's knowledge they manipulated funds over \$500,000 to \$1 million. They were taken partly from Measure I money to be used for sidewalks and funneled to Bud Bender Park. If he didn't speak up, and if three didn't have the courage to stop it that money would have been funneled. He would like to bring up the Burrtec fee when they get an opportunity to give back to the citizens. At this point there have been 2 instances where they couldn't have been trusted. He know that is negative and doesn't know how else to say it but fiscally responsible and transparency shouldn't be their vision.

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Council Member Scott stated for his own clarification, he would like to know the background on using Measure I money for anything other than streets. He believes it's restricted to streets by State Law.

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Mayor Pro Tem Baca Jr. stated that they didn't take any action on anything to do with Bud Bender. The only thing they did was give direction to staff on was to put it out to bid. He wanted to make sure they clarified that to the public.

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TAB 6 – Construction Contract with Matich Corp. – annual street overlay

Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote Award a Construction Contract to Matich Corporation, a California Corporation, in the amount of \$ 1,806,780.44 for the 2013/14 & 2014/15 Annual Street Overlay Project, City Project No. 140803 & 150801.

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TAB 7

Removed from the Agenda.

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Council Member Scott stated that wen TAB 7 comes back, he would be abstaining from the item. J&K Towing is included in the item. He assisted Mr. Silva with hi environmental issues on that property.

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TAB 8 – Construction Contract to Pantano Excavating - Rialto Airport Demolition - Phase I

Robb Steel, Development Service Director presented the staff report regarding Construction Contract to Pantano Excavating, for the Rialto Airport Demolition - Phase 1, City Project No. 130704.

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Council Member Palmer left the dais at 7:48 p.m.

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Council Member O'Connell stated this is an excellent job of saving the City almost half a million in the Airport Fund. He loves the thinking of the staff. Great job.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by a 4-0 vote to Award a Construction Contract to Pantano Excavating, Inc., dba Pantano Demolition in the amount of \$98,700 for the Rialto Airport Demolition - Phase 1, City Project No. 130704. Council Member Palmer was absent.

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TAB 9 – Construction Contract to Carvajal Trucking and Tractor – annual curb, gutter and sidewalk improvement project

Robb Steel, Development Service Director presented the staff report regarding Construction Contract to Carvajal Trucking and Tractor for annual curb, gutter and sidewalk improvement project.

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Council Member Scott asked if these are replacements or new installations?

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Robb Steel, Development Service Director stated that they are replacements of damaged and deteriorated.

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TAB 9 – Construction Contract to Carvajal Trucking and Tractor – annual curb, gutter and sidewalk improvement project

Council Member Scott stated that he noticed around the City when they do replacement because they were either damaged or lifted by trees. They can go within a few feet of brand new repairs and replacements and see sidewalks that are just as bad as the ones replaced. Does staff go out there prior to the replacements and look at the rest of the curb, gutter and sidewalk to determine if everything else is ok? Or is there contingency if they see bad concrete 10 feet away.

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Robb Steel, Development Service Director stated he will talk to Public Works staff and make sure they remedy the problem and not patch to broken concrete.

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Mayor Pro Tem Baca Jr. stated knowing its \$65,000 is not a large amount of money but is the priority too focused on areas that have been damaged?

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Robb Steel, Development Service Director stated yes.

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Mayor Pro Tem Baca Jr. stated hopefully they can start getting to some of the areas especially in the southern part of town that which do not have sidewalks. Are they going after the Safe Routes to School grants to add sidewalks.

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Robb Steel, Development Service Director stated they have one Safe Routes to School project on Cedar which will be coming back to City Council.

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Council Member O'Connell asked how much are they spending this year?

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Robb Steel, Development Service Director stated the total budget is \$100,000.

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Council Member O'Connell asked how much if they went back to the whole of what is outstanding?

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Robb Steel, Development Service Director stated that the list they have is about \$1million of damaged and deteriorated sidewalks. They are addressing the \$75,000 contract.

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TAB 9 – Construction Contract to Carvajal Trucking and Tractor – annual curb, gutter and sidewalk improvement project

Council Member O'Connell stated so at that rate it will take them 10 years to get caught up.

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Robb Steel, Development Service Director stated yes, they will be adding new projects to the list. Historically, they have set aside \$200,000. This was the first year they set aside \$100,000.

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Mayor Pro Tem Palmer returned to the dais at 7:54 p.m.

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Council Member O'Connell stated he is sure they are surprised to hear the time frame. As money become available there will be a whole list of priorities.

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Mayor Robertson stated that she has questions and concerns about the locations based on the need for repair. She would like to see the remaining list. She knows a year ago she brought to public works attention that they have a sidewalk situation on Pepper Ave. where it was buckling at a 90 degree angle on the eastside. To her knowledge it hasn't become addressed yet. It becomes a problem of possibly a danger site where someone could trip and fall. Today near Discount Carpet, they have some decorative area and she stepped in a whole. How are they assessing those. They really need to address those that clearly are issues.

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Council Member Scott stated this is probably not all encompassing of everything in the City.

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Robb Steel, Development Service Director stated that there are 40-50 projects and he doesn't know how they are initiated.

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Council Member Palmer stated that they can drive every street in Rialto, there is sidewalk damage. He knows they do what they can.

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Mayor Robertson stated if the concern was put in over 16 months ago then at what point does it bubble to the top. She wants to see the list and how they make decisions.

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Council Member Palmer stated that an attorney friend of his owns some homes in Rialto and one of the sidewalks is really buckled and it's been four years.

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TAB 9 – Construction Contract to Carvajal Trucking and Tractor – annual curb, gutter and sidewalk improvement project

Council Member O’Connell stated he called Public Works a year and a half ago and was told it was on the list and he got the impression that it just gets added to the bottom of the list and slowly percolate up.

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Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to Award a Construction Contract to Carvajal Trucking & Tractor, Inc., in the amount of \$65,788.00 for the 2014/15 Annual Curb, Gutter and Sidewalk Improvement Project, City Project No. 150803.

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TAB 10 - Third Amendment Security Guard and Patrol Services

Katie Nickel, public Works Department presented the staff report regarding the Third Amendment for Security Guard and Patrol Services.

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ORAL COMMUNICATIONS

David Phillips, 659 Teakwood Ave., stated that he originally was opposed to Contact Security but he is in full support of the contract.

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Council Member Scott stated that he had asked for this item to be removed from the last meeting to meet with the company. One was a transparency issue and another was an experience he had with them in the community. He had his questions answered. They will work on the issues with kids and transients and come back in 60 days to have a re-evaluation.

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Motion by Council Member Palmer, second by Council Member O’Connell and carried by unanimous vote to Adopt Budget Resolution No. 6679 and Approve the Third Amendment to the Contract Services Agreement with Contact Security, Inc., a California Corporation, an increase of \$27,385.40 for Security Guard and Patrol Services at the Rialto Airport and the Community Center, for a Fiscal Year 2014/2015 Total Cost of \$373,769.20.

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TAB 11 – On-Call Civil Engineering Plan Check and related services

Robb Steel, Development Services Director presented the staff report regarding the On-Call Civil Engineering Plan Check and related services.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to adopt Budget Resolution No. 6684 approving an Increase to the Purchase Order to Lockwood Engineering in the amount of \$300,000 for a Total Contract Authorization of \$650,000 for “On-Call” Civil Engineering Plan Check and Related Services.

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Council Member O'Connell left the dais at 8:12 p.m. and returned at 8:18 p.m.

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TAB 12 – Establishing amount of Business License Tax on Wholesale Liquid Fuel Storage Facilities

Robb Steel, Development Services Director presented the staff report regarding Establishing amount of Business License Tax on Wholesale Liquid Fuel Storage Facilities.

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ORAL COMMUNICATIONS

Mardiros H. Dakeessian, Law Firm of Reed Smith, representing Kinder Morgan and Shell Oil Company, expressed opposition to the City Council's proposed implementation of the Measure U Tax at the rate set forth in TAB12.

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Ron Turovsky, Law Firm of Manatt, Phelps & Phillips, representing Tesoro Corporation expressed opposition to the City Council's proposed implementation of the Measure U Tax at the rate set forth in TAB12.

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David Phillips, 659 N. Teakwood Ave., expressed concern about Council Member Ed Scott who was given money by the very companies that are there trying to store fuel in the City. He stated Council Member Scott should recuse himself from any votes on this issue.

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City Attorney Galante stated that the letter they submitted came late this afternoon. He just had an opportunity to look at it. He is familiar with some of the cases that were cited. He completely disagrees with the arguments made. He does not believe any of the cases that are cited stand for the proposition that a tax that is Measure based on the specific use is being used being employed on the properties. And measured by the amount of material of fuel that can be stored within those properties and taxes dependent on the storage capacity of that is arbitrary. There is absolutely a rational basis for the voters approving that tax because it is very much related to the particular uses made on the property and the size of the storage facilities. He does not believe they are discriminating against the tank farm operators they are engaging in a particular use that requires the delivery of significant public resources including public safety personnel. For the various reasons they cited and the cases that are highlighted are cases that are very distinct. It's not a property tax it's specifically on the particular use being used on the property. He is happy to speak to the campaign contribution issue. A campaign contribution is not a basis to find any Council Member to have a disqualifying Conflict of Interest. A campaign contribution are not considered income. Any Council Member is free to take a more cautious approach.

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**TAB 12 – Establishing amount of
Business License Tax on
Wholesale Liquid Fuel Storage
Facilities**

Mayor Robertson acknowledged that they received the letter submitted by the attorneys and part of the record.

She asked if any legal action was taken with a similar situation in Northern California. Rialto followed the same process and that action did not go with any litigation and appears to be standing. There was a path established so they modeled it.

Procedurally, at the time they adopted the action to put it on the ballot they also had to procedurally decide that if successful they have to take action that says they now move forward with what the citizens of Rialto have voted in support of. They can't go forward and begin to impose until they take some type of resolution. They have to set the figure because they can do anything up to the max. Until such time she appreciates those who have come forward to talk. If Rialto doesn't take action then they can't procedurally make a decision if they want to pursue litigation on the action.

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City Attorney Galante stated that is accurate.

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Mayor Robertson stated that she wanted to make sure because as they pursue this they understood that it wasn't going to be just a smooth transition. The citizens came out and supported it and she feels comfortable with that.

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Council Member Scott addressed Mr. Phillips comments. The contributions he is referring to came from Phillips 66, Conoco Union 76. Neither of these attorneys in this room represent those companies. He worked for Union Oil Company of California Unocal 76 for over 8 years and he had a 30 year career in the petroleum industry. He knows a lot of people in the oil industry. So if his former employer wanted to give him a contribution they certainly had a right to do that. There is no requirement for him to abstain from any vote as a result of any former employer giving him a contribution.

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Council Member O'Connell stated as a member of the Ad-Hoc Committee along with Mayor Robertson they spent months trying to negotiate with the oil companies. They didn't want this to go to a vote. One year they gave them a \$50,000 donation to a fire truck. At the last offer, they offered the City \$1 million but along with that came wording that they were going to subtract certain things. At this point, after an extensive time frame of trying to negotiate in good faith. This is when they decided to let the citizens decide.

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**TAB 12 – Establishing amount of
Business License Tax on
Wholesale Liquid Fuel Storage
Facilities**

Motion by Council Member Palmer, second by Council Member O'Connell and carried by unanimous vote to Adopt Resolution No. 6685: A Resolution of the City Council of the City of Rialto, California, establishing the amount of the business license tax on wholesale liquid fuel storage facilities pursuant to Ordinance No. 1556 and approve Budget Resolution No. 6686.

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REPORTS

City Council gave their reports.

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ADJOURNMENT

Motion by Council Member Palmer, second by Council Member Baca Jr. and carried by unanimous vote to adjourn the City Council meeting at 8:53 p.m. in memory of:

New York Police Officer Rafael Ramos

New York Police Officer Wenjian Liu

Mr. Marty Avalos - Rialto Resident

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